

THE FOURTH REICH

TOWARD AN AMERICAN POLICE STATE

America's draconian asset seizure laws are being quietly and devastatingly enforced.

The media silence on this issue is alarming in itself.

Read this and pray that Australia does not follow, yet again, in America's footsteps.

Extracted from an article written by Donald S. McAlvany, published in: **The McAlvany Intelligence Advisor**, January 1993 edition.

Subscription Office:
PO Box 84904, Phoenix, AZ 85071 USA.
Tel: (602) 252 4477, or (303) 259 4100.

USD\$56- for 6 months (in USA)
USD\$72- for 6 months (Foreign)

THE EXPLOSION OF GOVERNMENT REGULATIONS

Congress passed almost 2,500 new laws in 1992. Most of these laws carry both criminal and civil penalties for violations. These laws are turned over to any of several dozen applicable federal agencies (i.e., FDA, EPA, BATF, SEC, IRS, OSHA, FCC, FAA, DEA, etc.) which write tens of thousands of federal regulations each year to implement and enforce these new laws. These agencies employ close to 121,000 faceless bureaucrats to write the new regulations and enforce these laws and regulations.

There were 67,715 pages of new regulations written and published (in fine print) in the Federal Register in 1992 and that suffices as legal public notice of the new laws and regulations. The public are responsible for following every one of those. It would take a large battery of Philadelphia lawyers to interpret and keep up with this avalanche of new regulations; but each US citizen is considered to be responsible to know, understand, and abide by these new laws and regulations.

Heavy fines and/or jail sentences are associated with violation of many of these laws and regulations, and tens of thousands of Americans are now sitting in jail, or have been heavily fined, or had their businesses closed for violation of these new laws and regulations. In many instances, agents from the various agencies run stings against unsuspecting citizens or businesses, and entrap them into violating the new law or regulation. A high profile example is then made of the new criminal, or violation, along with the fines, prison sentences, and media publicity, to intimidate the public, or other related businesses into going along with the regulations.

America has more people in prison per capita today than South Africa, Albania (and most of Eastern Europe), or even Red China. We jail 6 times as many people per capita as Denmark, and almost 11 times as many per capita as Japan.

These dictatorial new laws and regulations are costing Americans literally hundreds of billions of dollars per year, and are hamstringing tens of thousands of small businesses which literally cannot afford the paperwork, red tape, and expenses of compliance, and are therefore forced out of business. One small example: The Agriculture Department has made it a crime to sell peaches or nectarines which do not meet the minimum size of 2-7/16" and 2-3/8" in diameter respectively. This new regulation (passed in 1992) will condemn to rot over 500 million perfectly edible peaches and nectarines per year.

The US Attorney General has already filed for a federal injunction and a \$100 per box fine against California's largest nectarine and peach farmer, who was selling the forbidden fruit at a bargain price of under \$10 per box to thankful inner city residents. The farmer is now a criminal who will be fined heavily for his crime. But meanwhile, the Agriculture Department has asked the California Nectarine Administrative Committee to undertake market research to determine the effect of fruit size on consumer preferences.

ENVIRONMENTAL REGULATIONS

These may be the most dangerous of all, because the Clean Water Act, Clean Air Act, and a host of other environmental laws and regulations passed in recent years give the government draconian, dictatorial controls over virtually every business and person, over every piece of private property, every car, and every action of every American in the US.

Even as thousands of murderers and rapists are turned loose by our justice system each year on technicalities, room is being made in our jails for honest law-abiding citizens. A case in point is a Vietnam vet and environmental consultant, Bill Ellen, who is now serving a six month prison sentence for a 'wetlands' violation. (The US attorney had pushed for a three year sentence but the judge was more lenient.)

What was Ellen's crime? In 1987, Ellen, who had a strong background as a conserva-

tionist, agreed to do a project to construct 10 ponds for migrating geese and wildlife on the Eastern shore of the Chesapeake Bay in Maryland. Ellen was to build the \$7 million, 103 acre wildlife sanctuary on a 2,000 acre private estate. Ellen, who knew environmental laws well, got all the proper permits, and complied with all those laws and regulations as written in 1987. However, in 1988, the definition of 'wetland' was expanded to include potholes that collect water during rains.

Ellen, who already had permits, was unconcerned with the new regulations because the land was so dry that workers had to wear dust masks. However, Ellen was indicted for 'wetlands' violations after one government agency told him he could continue landfill work and another told him he could not. Acting on the former, he hauled in two more loads of landfill (i.e., dirt).

Angry federal environmental bureaucrats toured the land after three days of heavy rains and indicted Ellen for "desecration of wetlands". He was sentenced to six months in jail where he now sits. The owner of the estate escaped jail as an accomplice to an environmental ('wetlands') crime by paying a \$1 million fine and making another \$1 million donation to the National Fish and Wildlife Federation.

POLICE STATE TACTICS

US military and National Guard personnel have been undergoing training and exercises for several years for house-to-house searches (presumably for drugs or guns), for crowd control, and for domestic 'counter-terrorism measures'. Roadblocks are being randomly set up on highways around America by local, state, or federal officials to conduct driver's licence checks or warrantless spot checks of cars or their occupants for drugs, liquor, or firearms; local or state police or military helicopters are, with greatly increased frequency, overflying cities, towns, neighbourhoods, and individual houses at low levels (looking for drugs, for surveillance, or for intimidation purposes).

In late '91, an 'urban warfare training exercise' by the US Marines brought a dozen military helicopters swooping low over San Francisco rooftops, prompting hundreds of frightened calls to radio stations and the local police, who denied any knowledge of the exercise. Hundreds of military vehicles (black and with no markings) are being observed in various parts of the US, in many instances manned by personnel in black uniforms (with no insignias). Denial of any knowledge of these helicopters, vehicles or personnel from local, state, and federal officials almost always follows frightened enquiries from citizens.

Over the past two years, as training and enforcement exercises have increased, SWAT teams in black Ninja suits and other government marshals and enforcement teams have had an increasing number of shootouts with innocent victims who are characterised by the government as 'religious fundamentalists', 'white supremacists', 'left or right wing extremists', 'tax protesters', etc.

In August '92, a mob of Federal agents surrounded the remote Idaho home of Randy Weaver (wanted on a misdemeanour warrant) and his family, and in a ten-day siege shot and killed his wife and 14-year-old son. In October '92, a 'drug raid' against a 61-year old wealthy, partially blind Ventura County, California resident, Donald P. Scott, resulted in Scott being shot dead by Los Angeles County Sheriff's deputies. No drugs were found, nor did Scott resist arrest.

The general tactic (whether used by local or federal police officials, or both) is to overwhelm (and intimidate) the 'suspected' money launderer, environmental or financial 'criminal', gun law violator, etc. by invading his home or business with a SWAT team and/or federal marshals or agents numbering 10 to 20 or 30 people.

Guns are often drawn and if the 'victim' of the attack makes any sudden move, he is often shot.

This writer personally knows of at least a dozen individuals (none ever convicted of a traditional crime such as murder, rape, robbery, etc.) who have had their homes or businesses invaded by local, state or federal law enforcement SWAT teams in this manner. The experience is terrifying for the individual, families, or employees involved. Shades of Nazi Germany, Red China, or the old Soviet Union!

TOWARD A STATE OF NATIONAL EMERGENCY

Over the past few years, a number of references to a State of National Emergency (or martial law) have been hinted at or suggested by government officials, congressmen, etc. usually to fight the drug war, crime, etc. Indeed, martial law was imposed in Los Angeles (and was begged for by the public) to quell the massive riots in the spring of '92, and could have been declared nationally had the riots continued to spread during the summer of '92.

MARTIAL LAW, by definition, is "A system of government under the direction of military authority. It is an arbitrary kind of law, preceding directly from military power and having no immediate constitutional or legislative sanction. It is only justified by necessity, and supersedes all civil government. Martial law is built

on no settled principle, but is arbitrary and in truth no law." Suspension of the writ of habeas corpus (i.e., right to trial by judge and jury and protection from illegal imprisonment) is a major element of martial law. As Justice Blackstone wrote: "In this case, the nation parts with a portion of its liberty and suspected persons may then be arrested without cause assigned."

The potential for a State of National Emergency or martial law in America over the next three to five to seven years (perhaps to deal with riots, the war on crime or drugs, a financial/banking crisis or some manufactured crisis) is a very real possibility. Indeed aspects of a state of emergency (or martial law) and the suspension of constitutional rights already exist in America today! Over a dozen Executive Orders have been passed by Congress over the past few decades giving the President total dictatorial control over every aspect of American life if the President decides to trigger and implement same. FEMA would then go into action, firearms would be confiscated, and many (if not all) constitutional rights and guarantees would be suspended.

Under a full state of emergency, tens or hundreds of thousands of Americans (guilty of hate, environmental, financial, or gun control 'crimes') are likely to be imprisoned. Perhaps this is why George Bush moved in recent years to double US prison capacity, and why under a national security directive called "Rex 84", signed in 1984 by President Reagan, eleven huge federal detention centres were activated in California, Arizona, Arkansas, Wisconsin, New York, Pennsylvania, Virginia, Georgia, and Florida.

ELECTRONIC SURVEILLANCE AND COMPUTERISATION OF THE PUBLIC

Computers and other high-tech breakthroughs over the past few years have given the US (and other governments) the ability to listen to, monitor, track, and keep citizens under surveillance (from the cradle to the grave) that were not available to Hitler in Nazi Germany or to the communists in Russia, China, or the East bloc until very recently.

In 1974, the government had 3.9 billion records of individuals

Under a full state of emergency, tens or hundreds of thousands of Americans (guilty of hate, environmental, financial, or gun control 'crimes') are likely to be imprisoned.

stored in the personal data systems of 97 federal agencies. The Department of Health, Education and Welfare had 693 separate data systems with 130 million personal records including marital, financial, health, etc. data stored. The Treasury Department had 910 data systems with 853 million records; the Justice Department 175 data systems with 181 million records; the Defense Department 2,219 data systems with 312 million records stored, etc.

These numbers (from *US News and World Report*) are 20 years old. The computer files on Americans today are probably ten times larger and are linked together between most government agencies. Like it or not, your life is now an open book. Using your Social Security number, any government agency, or agent (local, state, or federal) can now tap into dozens (or hundreds) of computer data bases on every American. A total and comprehensive computer profile exists on virtually every adult American.

Now the government has developed a DNA (genetic) data base on 1.5 million US military servicemen and is experimenting with same on federal prisoners. Most Americans are not aware that their phone calls, telexes, faxes and certain US mail are regularly monitored by federal agencies.

Phones can now be made 'hot on the hook' (i.e., turned into microphones even when hung up and not in use). According to a 1992 report by the General Accounting Office entitled "FBI Advanced Communication Technologies Pose Wiretapping Challenges", it is the intention of the FBI to tap all phones in America.

Every square inch of the earth's surface can now be monitored by satellite so that all persons and activities can now be watched. The government, in conjunction with AT&T, has developed computerised voice recognition on phones and also picks up and records (through the National Security Agency) key words from conversations, which trigger the NSA tape recorders.

Several years ago, US passports were made computer-readable. Now, US, Canadian, Australian, German and other European authorities are installing computers in airports which will not only read passports, but also hand prints via infrared security readers. This means data banks of computerised hand prints will be developed over the next few years and linked to other governmental data bases, so that an instant computer record of an individual will be flashed on a screen simply by waving a person's hand over a grocery store-type infrared scanner. Does this sound farfetched? This system is being set up at the Kennedy and Newark airports and airports in the aforementioned countries at this writing.

Biometric identification systems are now exploding onto the scene with computerised fingerprint comparisons, identification cards, debit and smart cards, driver's licences, proposals for a biometric national ID card, a biometric card to replace welfare cheques and food stamps, biometric passports, and biometric booking of prisoners by law enforcement officers. Biometric technologies include fingerprint comparison, retina scanning, DNA analysis, voice recognition, hand geometry, body odour, body heat patterns and brain wave analysis. In other words, 1001 ways of tracking the earth's inhabitants are emerging via new high technology.

Cars can be tracked via small implanted computerised receiving devices linked with government satellites. The US government has actually spent \$3 billion over the past 15 years to develop this people/vehicle tracking system. Now the exact location of trucks, police cars, and other vehicles is beginning to be tracked in the US via this method.

TOWARD A CASHLESS SOCIETY: THE WAY ON CASH AND PRIVACY

Present US government attitudes toward cash and people who use it are reminiscent of Nazi Germany. Police agencies nationwide consider anyone carrying a large quantity of cash to be involved in criminal activity unless they can prove otherwise. For example, an Iowa man stopped for a traffic ticket pulled his driver's licence out of his wallet, which also contained \$7,000 in cash. He was on his way to a sale that required cash - much like the government's own auctions of seized property. The policeman confiscated the cash because he didn't think that a man dressed in overalls should be carrying that much cash.

A subscriber from New Jersey recently described the following incident in a letter to your editor. He was recently driving down the New Jersey Turnpike in an 18-foot Hertz rental truck. He stopped at the last toll booth at the end of the Turnpike near Wilmington, Delaware, and paid the toll with a \$50 bill - the only cash he had on him. The attendant told him to wait a minute and then went to the front of the truck and wrote down the licence plate number, a description of the subscriber (who was driving) and his son (a passenger in the truck). While the driver asked about this, the attendant stapled the \$50 bill to the government form and told him that this was the procedure for anyone paying with a \$50 or \$100 bill.

In Florida, *The Orlando Sentinel* recently carried a series entitled: "Highway Robbery on I-95", which described how police seize your cash for even minor traffic violations on the basis that the cash is "probable proceeds of drug transactions". At airports, ticket agents and security personnel are

alert to anyone carrying large quantities of cash. Why? Because if their tipoff leads to a seizure, they get a finder's fee of 10-25%. In a seizure recently described on *60 Minutes*, a DEA agent testified in court that the person he seized cash from was carrying \$100s, \$50s, \$20s, and \$10s, "which were all widely used in the drug trade." Of course, this only leaves \$1s and \$5s for everyone else.

Drug residue on your cash provides 'probable cause' for its seizure. Tens of thousands of cash seizures are made each year because dogs allegedly identified the cash as containing drug residue. And yet, according to the DEA's own lab studies, it is the government itself (i.e., the Federal Reserve) that contaminates most cash in its currency sorting operations. Rollers on the Fed's cash sorting machines are contaminated with cocaine residue (20 to 100 times higher than those found on the average bill). Various studies dating back to 1985 show that anywhere between 80% and 97% of cash circulating has drug residue on it.

What happens to the seized cash? It's deposited into a government bank account to be recirculated. No effort is made to take it out of circulation, according to affidavits from 21 agencies that participate in cash seizures. If you want your cash back, you must go to court to prove that the funds were earned legitimately. If you win, the government always appeals under the strategy that they will litigate until you run out of money. So, does this make carrying cash illegal? In effect it does!

Illustrative of the government attitude toward cash was the November '92 article by David Warwick in *The Futurist* magazine, entitled "The Cash Free Society". The article claims that "cash has been the root of much of the social and economic evil.

Ridding society of its cash could make most criminal activity disappear, from purse-snatching to drug trafficking. Electronic money systems promise to lead the way to a cash-free, crime-free society."

In other words, 1001 ways of tracking the earth's inhabitants are emerging via new high technology.

The article admits that there are \$300 billion in legitimate cash transactions in America each year, but argues that the 40 million Americans who primarily use cash must adjust. Warwick recommends the instituting of a federal debit card system for all transactions, down to buying gum or a newspaper, paying for a parking meter or toll phone call, or even leaving a tip. Electronic transfers would "constitute legal tender". There would be no such thing as a "withdrawal", only a "transfer". A recent trial run was the government use of debit cards for food stamps and the paying of Marines at Paris Island via debit cards.

MONEY-LAUNDERING LAWS

In the former Soviet Union, if the government wanted to apprehend and imprison someone who had committed no crime, they charged him with the catch-all crime of 'hooliganism'. In America, the catch-all crime used against organised crime figures or other Americans has for years been RICO statutes or simply 'conspiracy'. But in recent years the government has created a new catch-all crime, punishable by imprisonment, confiscation of property, heavy fines, or all of them. It is called 'money-laundering'.

Most Americans suppose 'money-laundering' refers primarily to the hidden, laundered, movement of cash profits from drug deals. Wrong! It refers today to almost any 'financial crime', broken financial regulation, use of cash, avoidance of government cash reporting laws, unreported foreign bank accounts, unreported transfer of funds, or virtually anything the government bureaucrats want it to mean. The definition is vague and ever-expanding.

IRS agents are greatly accelerating money-laundering cases in situations where there is obviously no criminal intent, and certainly no involvement whatsoever with drugs or drug money. Remember, the IRS considers money-laundering to be any effort you make to disguise your assets or avoid completing a federal currency transaction or border-crossing form.

If a tax case can be called 'money-laundering', it is no longer civil, but criminal, with large potential criminal sentences and fines. The government's growing and expanding money-laundering laws are becoming the basis for a total financial dictatorship in America, all under the guise of fighting the drug war. The first thing the Nazis did in the 1930s to establish control over their population was to establish 'money crimes' that were punishable by forfeiture and imprisonment. Half a century later, the same thing is happening here. The war on drugs is a classic government power grab.

The Treasury Department has published a booklet entitled "Money-Laundering: A Banker's Guide to Avoiding Problems", which contains a list of suspicious activities that the Treasury Department says fit the profile of a 'money-launderer'. These activities include: 1) Paying off a delinquent loan all at once; 2) Changing currency from small to large denominations; 3) Buying cashier's cheques, money orders, or traveller's cheques for less than the reporting limit (i.e., under \$10,000); 4) Acting nervously while making large transactions with cash or monetary instruments; 5) Opening an account and using it as collateral for a loan; 6) Presenting a transaction that involves a large number of \$50s and \$100 bills; and 7) Presenting a transaction without counting the cash first.

Any non-reporting of cash transactions over \$10,000 on a form 8300 (THAT NOW INCLUDES CASHIER'S CHEQUES, MONEY ORDERS OF ANY KIND AND TRAVELLER'S CHEQUES) by a

banker, stockbroker, car dealer, jeweller, coin dealer, or any business accepting cash (or the above-listed cash equivalents) is considered a money-laundering violation and can result in heavy fines, and even imprisonment. Personal cheques, money market fund cheques and bank wires are not presently reportable on form 8300s. [NB: Murder, rape, and armed robbery now result in smaller and less frequent jail terms or fines than the new federal crime of money-laundering. In fact, the penalties for money-laundering are 10 times more severe than the same crime prosecuted as tax evasion.]

BUSH'S INTERNATIONAL STRUCTURING AND EXPANDED FORFEITURE LAW

The November '92 issue of *Low Profile*, written by Mark Nestmann (P.O. Box 84910, Phoenix, AZ 85071) carried an ominous article on America's latest money-laundering legislation. On 29/10/92, George Bush, who pushed through more money-laundering, anti-currency, and anti-privacy legislation in his single term than any other US president, signed the "Annunzio-Wylie Anti-money-laundering Act" which: 1) Prohibits a bank or financial institution from disclosing to a depositor the fact that their account is the subject of a money-laundering operation; 2) Requires all financial institutions or others who sell or redeem monetary instruments (cash, cashier's cheques, money orders, or traveller's cheques) or transmit funds by wire, to maintain records of any international transactions, and make them available for warrantless inspection; 3) Permits the Treasury to require financial institutions to report "suspicious transactions" that could involve a violation of any law or regulation. The institution is not allowed to notify the "suspect" of the report; 4) Permits the government to seize monetary instruments or financial accounts even if it cannot specifically identify the property allegedly subject to forfeiture (in other words, any other property of the "accused" can be seized); 5) Prohibits any action to structure or assist in structuring the transfer of monetary assets across US borders in any effort to avoid reporting the transfer. Any property involved in any structured transaction is subject to forfeiture. 6) Applies the weight of the anti-money-laundering laws to those who conspire to violate them, even if no violation takes place; 7) Permits any federal agency to share any data it holds with any other federal agency; 8) Permits the government to confiscate the assets of people even if they are held in foreign countries (this is the culmination of years of negotiations with other countries); 9) It allows the US government to prosecute foreign banks who use US banks to launder money; and 10) It empowers banking regulators to revoke the charter of institutions convicted of money-laundering. These provisions are designed to terrorise bankers and force them to become the money police for the government.

As Mark Nestmann wrote in his 10/92 *Low Profile* newsletter: "This bill greatly strengthens the government's hand in money-laundering and forfeiture cases. The 'vague' international structuring ban is particularly frightening. In theory, anyone transferring more than \$10,000 in monetary instruments in installments below that amount across a US border without notifying the Customs Service could be illegally structuring their transactions. They would then be subject to criminal penalties and forfeiture."

WHEN MONEY-LAUNDERING MEETS THE ENVIRONMENTAL POLICE

Mark Nestmann wrote in a recent *Low Profile* newsletter: "The July 1992 *ABA Banking Journal* describes how the Environmental Protection Agency (EPA) can use money-laundering laws against

Police agencies nationwide consider anyone carrying a large quantity of cash to be involved in criminal activity unless they can prove otherwise.

lenders that provide money to corporate polluters.

"The Crime Control Act of 1990 permits the EPA to apply money-laundering laws in criminal violations of most federal air and water pollution legislation. A lender may be convicted of money-laundering if it advances more than \$10,000 to a company that it knows or has reason to believe has violated environmental laws. Violators may be fined \$500,000 or twice the value of the property involved, whichever is greater. A maximum 20-year prison sentence may also apply to the individual(s) approving the loan."

"The courts have defined 'proceeds' as moneys that may have been co-mingled with other, legitimate funds. As a result, all receipts coming from a facility violating environmental laws, property acquired from such receipts, and perhaps even the company controlling the facility, may be 'proceeds'. All are subject to forfeiture under federal law."

"The article suggests that lenders should adopt 'due diligence' measures to avoid lending to companies in violation of environmental laws; make personnel aware of environmental and money-laundering laws."

STRUCTURING LAWS

'Structuring' is defined by the IRS as any effort to avoid reporting cash or other monetary transactions over \$10,000 by breaking them down into smaller 'related' transactions over any 12 month period (defined by USC 31, Sec. 5322-5324 Money-Laundering Control Act of 1986, as amended). A structuring violation carries with it a criminal penalty with a mandatory prison term, heavy fines, and confiscation of structured funds and money 'connected' to them. (A civil penalty of \$25,000 fine with confiscation of structured funds also exists.) Monetary instruments included in structuring are cash, cashier's cheques, money orders, and traveller's cheques.

'Structuring' is now defined as money-laundering, and is a criminal offence. You can now go to jail for dealing in cash to protect your financial privacy, if the IRS thinks you're trying to hide or structure your transactions or monetary instruments. Furthermore, it's against the law for a bank or merchant to tell you that you might be violating the law. This can get him prosecuted as part of your structuring 'conspiracy'. If they think your behaviour is suspicious, they may fill out a form on you without telling you and file it with the IRS who will promptly audit you, or begin a criminal investigation.

A few examples of structuring violations include a series of 'related' withdrawals or deposits over \$10,000 (i.e., several in any 12-month period) in monetary instruments without filing a cash reporting report (CTR) to the government, or making payments of \$10,000 or more in monetary instruments on an installment loan without filing a CTR. One illustration this writer is familiar with is a high school principal who lived in the South, with no criminal record, no history of drug usage or dealing, or even a speeding record--he simply believed in privacy. About two years ago, he purchased \$62,000 worth of krugerrands from a coin dealer and several days later mailed nine separate cashier's cheques to the dealer, of sizes varying between \$6,000 and \$9,000.

He had accumulated \$62,000 in cash (after taxes) over a 15 or 20 year period, believing that privacy and Amendment IV of the US Constitution were still in effect. He was wrong, they are not! The man went to nine separate banks to buy cashier's cheques, three of them (33%) turned him in to the IRS, the man was indicted on 16 counts of criminal violation of Title 31 of The Bank Secrecy Act of

1986; was found guilty; fined \$200,000; had his \$62,000 forfeited to the IRS; and was sentenced to five years in the federal penitentiary, all for the new federal money-laundering crime of buying nine cashier's cheques with his own cash. That is structuring laws in action and that sounds more like Nazi Germany than the America most of us grew up in.

If the government's case is shakier (or less clear-cut) than the principal's case (which, unfortunately, was a classic textbook Title 31 violation), their ploy will be to drop the criminal charges if you allow your assets to be seized without going to trial, and/or pay a stiff fine. This is now very common in drug kingpin cases. The drug dealer goes free, the police keep his assets. 'Structuring' is a strict liability statute. That means that even if there's no criminal intent, even if you earned the money legitimately, unless you can prove that the transactions were unrelated, the government keeps your assets.

If the government decides to prosecute you criminally, in addition to the mandatory prison sentence and fine, they can legally confiscate not just the money involved in the transaction, but any assets associated with the 'structured' funds. For example, if you 'structure' a withdrawal of \$10,000 in cash (over any 12 month period) from a \$1 million bank account, the government can seize the entire \$1 million. The seizure can proceed even without a criminal conviction or indictment, just like the forfeiture laws.

The average person might say, "Well, the government would never come after anyone who was totally innocent." But that's not true, he misses the point! The IRS admits that 85% of the people accused of 'structuring' committed no other crime than seeking to protect their privacy. The courts have upheld numerous criminal structuring convictions for violations that concealed no criminal activity. If the government wins the conviction, the judge must sentence the criminal "to a mandatory prison sentence".

This gives the lie to the argument that money-laundering/structuring laws are enforced to get drug dealers and fight the war on drugs. The fact is that it is far easier to convict an honest law-abiding citizen and confiscate his property than to go after a real drug dealer who has a battery of high-priced lawyers and accountants, and who might even shoot back.

In *US vs Aversa*, a federal judge delivered a scathing critique of the government's use of the 'structuring' statutes. Aversa's 'crime' was initiating a secret loan to help keep information about his wife's infertility private. The loan triggered reports of 'suspicious transactions' in his bank account.

In conclusion, money-laundering and 'structuring' laws have little if anything to do with the war on drugs. That is simply the excuse. They are a legal way for the socialist government bureaucrats to plunder and confiscate the peoples' assets (as in Nazi Germany or Russia), they are a way to enrich the government's debt-ridden coffers, they are a way to drive us toward the cashless society, and they are a way to place Orwellian-type controls on the American people.

This trend is likely to get worse under Bill Clinton, judging by a recent speech he gave in Michigan to a group of prosecutors (as reported by *Money-Laundering Alert*): "If we really want to get the big criminals, we can focus more on the money-laundering aspects of their operations, and use the federal authorities to deal with financial transactions that cross state lines, that deal with federally insured institutions, that deal with those things that the states will never be competent to deal with. That is what the federal government ought to focus on, go after the money!"

The IRS admits that 85% of the people accused of 'structuring' committed no other crime than seeking to protect their privacy.

ASSET FORFEITURES: HOW THE GOVERNMENT PLUNDERS THE PEOPLE VIA SEIZURE LAWS

George Orwell's *1984* has arrived in the USSA. Just as in Nazi Germany in the 1930s and in Russia from 1917 to 1990, any government agent or agency in America today can confiscate or seize almost any property from any American and there is very little the citizen can do to protect himself. We are witnessing the death of property rights in America, human rights and all other freedoms will follow.

In 1984, government seizures of so-called 'illegal assets' totalled \$30 million. In 1991, these seizures totalled \$644 million (not including IRS levies) for a net increase of 2,047%. (Seizures in 1992 probably exceeded \$750 million.) A total of \$2.6 billion in US citizens' assets have been seized since 1985, the Government Asset Forfeiture Office proudly boasts. Eighty percent of these seizures never resulted in an arrest or conviction, indicating that most are being taken from innocent people.

According to *USA Today*, there are now 1,000 forfeitures per week in the US, or 52,000 per year. Assets seized in order of frequency are: 1) cash or other monetary instruments; 2) vehicles, boats, planes; 3) bank and brokerage accounts; 4) real estate (including your home); and 5) pension and profit-sharing plans.

Police or government seizures now pose a seemingly random, but still, very real and terrifying, threat to everything we have worked so hard to earn and save over the years. It is frightening to realise that if your teenage son or daughter hosts a party at your house, and one of the guests brings a few joints of marijuana, you can lose your entire house and everything in it under many local or state forfeiture laws. (Federal forfeiture laws will apply only if the substance is present in saleable quantities.)

Asset forfeiture is an unconstitutional process (though considered legal according to new socialist laws and regulations) which allows the government or any police agency to simply 'accuse' or 'suspect' you of a crime (but not formally charge you), and then seize your property. In most instances there is no arrest, no trial and no conviction. You are presumed guilty until you can prove yourself innocent. The plain fact is that the great majority of people who have property seized from them by the police are innocent and law-abiding. One study showed that in 80% of the seizures, the police never even filed charges against the victims of the seizures, or, in some cases, filed charges and then dropped them.

The police need no warrant to seize your car, your cash, your business, your house, your bank account, your investments, your retirement plan, or your personal property, with no due process. They don't even have to formally charge you with a crime. There are hundreds of local, state and federal laws and thousands of regulations on the books under which the government can seize your property.

Furthermore, as *Financial Privacy Report* (PO Box 1277, Barnesville, MN 55337) says, there's no cap on the value of the seized assets. They can take expensive cars and homes for even the most minor 'suspected' violation. You might be under suspicion of violating some statute for which the maximum penalty, if convicted criminally in a court of law might be a \$500 or \$1,000 fine. But under these laws, the police or government can seize your property worth 100 or even 1,000 times as much as the maximum fine, and they don't need to convict you to do it.

Three fraternities on the University of Virginia campus found out

the hard way when federal agents raided them and confiscated a small amount of marijuana worth, at most, a few hundred dollars. Criminally, this would have been treated as a youthful first transgression of a few teenagers. But under the seizure laws, the police took the fraternity houses themselves, which were worth about one million dollars.

In Iowa, a woman accused (not convicted) of shoplifting a \$25 sweater saw her \$18,000 car (which had been specially equipped for her handicapped daughter) seized as the potential 'getaway vehicle'. In Portland, Oregon, the police raided a bar and arrested a bartender (not the owner) on suspicion of bookmaking. There was zero evidence pointing to the bar owner's involvement--the police documents didn't even mention him. But the police seized his business anyway. The deputy district attorney in charge said she didn't have evidence to press criminal charges against the owner "so we seized the business."

PROBABLE CAUSE

The government or police do not have to show any more than 'probable cause' that a crime has been committed, the same standard which for centuries has been applied to search warrants. So the police can now seize your home with no more evidence than it once took to search it.

'Probable cause' can be when the police or government agency 'suspects' racketeering (which is broadly defined, it can mean almost anything), drug possession, drug trafficking, money-laundering (See Section IIA above), robbery, murder, tax evasion, extortion, environmental crimes, violation of the Trading with the Enemy Act, violation of the Emergency Economic Powers Act, gun control violations, and more than 100 suspected unlawful activities named in legislation.

Some specific examples of 'probable cause' in the current avalanche of government seizures: 1) a tip from a paid informant (with a finder's fee of 10-25% of the value of the seized property paid); 2) a tip from an airline ticket sales person or airport security guard (with a finder's fee paid of 10-25% of the value of the seized property); 3) any trace of any controlled substance (i.e., drugs) on any person or property (zero tolerance is allowed); 4) any trace of any controlled substance (i.e., drugs) on cash or other monetary instruments; 5) any specified unlawful activity in which probable cause indicates you are guilty (i.e., firearms violations, unpaid speeding tickets, etc.); 6) making an effort to avoid filling out a cash reporting form at the bank; 7) innocently doing business with a person that the government believes you should have suspected of committing a

crime.

Bill and Karen Munnerlyn, recently profiled on *60 Minutes*, are classic examples of (7) above. Bill Munnerlyn used to own a Las Vegas air freight service. But on 19/3/89, Bill flew an old man and four padlocked blue plastic boxes to a California airport. Unknown to Bill, his passenger was a convicted cocaine trafficker, and the boxes contained nearly \$3 million in cash from a drug deal. An informant tipped off the DEA as to the nature of the cargo and passenger, and both the passenger and Bill were arrested upon arrival. The jet, the blue boxes, and even \$8,500 in cash Bill's passenger had paid for the flight were seized.

Bill was released three days later with no charges, but the DEA kept the plane, and the US Attorney prosecuting the seizure said it was justifiable because the plane flew into the Los Angeles area, which is "known as a centre of illegal drug activity" and that was sufficient 'probable cause' to seize the plane. In October '90, Bill took the government to court and won a jury trial. But the judge overturned the jury's verdict.

The police need no warrant to seize your car, your cash, your business, your house, your bank account, your investments, your retirement plan, or your personal property.

Continued on page 62

Vol 2, No 13 - 1993

Continued from page 22

The DEA then demanded that Bill pay a \$66,000 fine (which he did not have) to get the plane back. Meanwhile, the plane had incurred \$50,000 in damage while in government custody. In the meantime, under DEA pressure, the FDA revoked Bill's flight certificate. Bill never got the plane back. His business is gone, and he now drives a truck to support his family. But, the informant whose tip led to Bill's jet being seized is eligible for a reward up to 25% of the value of the plane.

According to a recent article in USA Today, in 1992, 65 informants made over \$100,000 each by simply alleging to police agencies that their friends, neighbours, and/or business associates had committed crimes. And no, when you go to trial, you don't have the right to confront the informant in court. The reason: it's a civil, not a criminal proceeding.

To seize your property, the government need not accuse you of a crime. All that is necessary is that the judge agree with a prosecutor that 'probable cause' indicates that a crime was committed in or on your property. Or a policeman, or sheriff, or federal drug agent can make that determination on the spot and seize your car, your boat, your home, your bank accounts, etc. According to The Pittsburgh Press, over 80% of the victims of 25,000 such seizures they analysed were never accused of any crime.

LOOKING SUSPICIOUS CAN GET YOUR ASSETS SEIZED

A 'suspicious' customer or transaction at a bank or financial institution goes to the top of the seizure list. There is a box on the top of the CTR (cash reporting form) and if a person looks nervous, or protests having the form filled out, or is too inquisitive about the form, that box may be checked. The bank is supposed to notify the Treasury Department but cannot tell you, they're just supposed to spy. Should the Treasury Department find your actions suspicious, it can freeze your account and it's up to you to prove the seizure is improper.

In the largest effort of this type, Operation Polar Cap, the Treasury froze more than 700 'suspicious' accounts. Ultimately only about 10% of these were shown to be possibly tied to illegal activity. The other 90% were erroneously (but 'legally') confiscated. Yet each depositor whose account was wrongfully seized had to prove, at their own expense, that their assets had been earned by legitimate means.

As the Financial Privacy Report writes, "Forfeiture laws were expanded in 1984 to allow the government to take possession without first charging the owner. The proceeds finance more investigations and are helping to finance the financial shortfall of local, state and federal governments. Eliminating the need to prove a crime has moved most action to civil court, where the government accuses the item, not the owner, of being tainted by crime. As a result, jury trials can be refused, illegal searches condoned, and rules of evidence ignored.

"In up to 80% of the cases, no charges are ever filed. If they are filed, you have plenty of time to fight them. But you only have a very limited time to fight a seizure. In California, for example, you only have 10 days to file your challenge to seizure. There you are: you have been thrown out on the street, your home and bank accounts seized, no money to pay a lawyer, and you have to prepare your case.

"You also usually have to file a bond with the court. That bond is about 10% of the value of the property seized. Where do you get the money for the bond, if they have seized all of your financial assets (as they did to a friend of this writer)? But if you don't come up with the money for the bond, your property is gone. And what is the bond for? It's hard to believe, but it's to cover THEIR cost of fighting YOU in court. They seize your property without a trial, and then force you to finance their case against you. It's like being sentenced to the firing squad, but your executioners make you pay for the bullets and the burial, and dig your own grave."

YOUR RIGHTS IN A HEARING ABOUT A POLICE SEIZURE ARE VERY LIMITED

As the Financial Privacy Report points out, "in some states, you have no right to trial by jury. Your case is heard by a judge who often has a direct financial stake in the seizure. If they take your assets, and you can't afford a lawyer, that's your tough luck. You don't have a right to a court-appointed attorney. In some cases you do not get to testify on your own behalf. Hearsay evidence, not admissible for criminal cases, can be used against you. You do not have the right to confront your accusers.

"And worst of all, there is no presumption of innocence. These 'forfeiture' hearings, which harken back to the days of the Spanish Inquisition, work the other way - you are presumed guilty until you prove your innocence."

WHO PROFITS FROM THE PRESENT SEIZURE LAWS

Certainly local, city and federal government(s) are helping to cover some of their financial shortfall from the loot they steal from their victims. Informers and spies are profiting handsomely from seizures, with some airline ticket clerks, security guards, bank clerks, etc. comfortably supplementing their income with finder's fees for tips leading to seizures. Typically, informants (snitches) get 10 to 25% off the top. There are some snitches with horrible criminal records who are now millionaires from these seizures and 'snitch fees'. You will be happy to know that no Form 1099s are issued on these fees, so the 'snitches' are apparently enjoying tax-free income. Incredible!

More than 90% of the search warrants granted to law enforcement agencies are based on information supplied by informants. The government pays out more than \$60 million per year in finder's fees to informants. One wonders who is more corrupt, the informant or the bribing officials?

In 1984, 'bounty hunter' provisions were added to the federal forfeiture laws that permit local police to keep most of the proceeds of the property they seize under federal authority. Since then, government seizures have soared 2,047%, a Congressional report has noted (approvingly).

The laws governing how the seizure booty is split up vary from state to state. A typical state split for the balance (after paying the informant's finder's fee) might run 70% to the local police, with the district attorney's office, judges' chambers and the Feds splitting the balance. In Louisiana, for example, every official involved in 'justice' is given a direct financial stake in upholding the seizure. The police bringing the case get 60%; the prosecuting DA's office gets another 20%; and the judge signing the forfeiture order gets the remaining 20% for his or her court fund.

THE INNOCENT OWNER DEFENCE

In a case now before the Supreme Court, the Justice Department is seeking to virtually eliminate what is called the 'innocent owner defence' in federal forfeiture cases regarding seizures of real estate, cash, vehicles, bank accounts, etc., allegedly tainted through drug activity or any of more than 100 other 'crimes'.

A 1984 law states that federal ownership of property begins the instant an activity punishable by forfeiture takes place on it. Now, the Department of Justice interprets that wording as allowing it to deny the claim of any innocent owner to whom the property is later transferred. In other words, the alleged illegal act eliminates any subsequent rights to the property by any party other than the US government.

The Justice Department holds that once property is tainted by a crime, it is tainted forever. The implications of the elimination of the 'innocent owner defence' are staggering. Example: a series of

THE FOURTH REICH - TOWARDS AN AMERICAN POLICE STATE

say 3, 4, or 5 owners of real estate, property, a vehicle, a plane, a boat, etc. have bought and paid for the property or item in good faith, and are unaware of any prior criminal activity related to that property. But if owner 1 or 2 dealt or kept drugs on that property (or did any other illegal activity) or even transported them in the car, boat, plane, etc., the Justice Department claims that it owns the property (via forfeiture/seizure laws) from the point in time that it "became tainted with the crime" and that all subsequent owners have no rights. It also claims that it is entitled to all income from that property from the time it was "tainted with the crime" until the seizure and forfeiture, whether the lapse was a year, or ten years. The Department of Justice holds that buyers 3, 4, or 5, who legally paid for the property and hold title to it, can have it seized from them at any point in the future.

Imagine how many of us own a home or vehicle which may have had a former owner who was a drug dealer (or who violated any one of the more than 100 laws for which forfeiture is permitted). The Department of Justice says that we do not have good title to that home or vehicle, that the government can seize it at any time. Mortgage lenders, real estate brokers (or investors), title companies, landlords, are going to freeze in their

tracks when they begin to understand the implications of this. There may be no such thing as clear title in the US as the Department of Justice declares literally millions of properties vulnerable to potential forfeiture.

There is a five-year statute of limitations in federal civil forfeitures (although the government is now arguing in a case before the Supreme Court that there is no statute of limitations, whatsoever). So, if the government gets the 'innocent owner defence' thrown out, it has five years after the first alleged illegal use to make a claim against the property, no matter how many times the property has changed hands in the interim. The last owner gets burned, but he will sue all prior owners for not having gotten the good title he thought he got.

Let's look at a large example. Let's say that in 1989, XYZ Company dealt drugs out of its offices on the 32nd floor of the Empire State Building, which is owned by R-Corporation. The Empire State Building is later sold in 1991 to Japanese interests (J-Corporation). XYZ Company officials are arrested and indicted on drug charges in 1992. At what point who legally has title to the Empire State Building? According to the Justice Department, not R-Corporation and not J-Corporation. The government

owns it from the time the crime occurred in 1989 and can seize it in forfeiture when it wishes.

CONCLUSION:

We are entering an unconstitutional quagmire of seizures, forfeitures, and lawsuits of incredible dimensions. It is almost beyond belief to this writer to see what is happening in America today. The government encourages Americans to spy on one another for pay; the government and police unconstitutionally seize and confiscate private property of innocent American citizens; Americans who believe in the Constitutional guarantees to privacy, or simply the use of cash, are impoverished, jailed, or both.

A growing number of our police and government officials no longer necessarily represent justice and protection, but are being corrupted with their new-found power and ability to share in the loot; and everyone is beginning to be suspicious of everyone else, and especially of the police and government officials - a growing number of whom are beginning to look and act more like their Gestapo and KGB counterparts every day. This is not the America this writer grew up in! Welcome to the USSA - a branch of the New World Order! ∞